

AMENDED IN ASSEMBLY MAY 2, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 830**

**Introduced by Assembly Member Sharon Runner**

February 18, 2005

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An act to amend Sections 17053.70, 17053.74, 23612.2, and 23622.7 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 830, as amended, Sharon Runner. Personal income and corporation taxes: enterprise zone.

The Personal Income Tax Law and the Corporation Tax Law allow a taxpayer to claim certain tax incentives for activities conducted in an enterprise zone, including an enterprise zone sales and use tax credit and an enterprise zone “qualified wages” credit.

Existing law, in connection with the calculation of either of those tax credits, specifies certain statutory apportionment procedures and the application of property and payroll factors in income apportionment formulas, and limits apportionment calculations to California-based income, rather than worldwide income. Existing law additionally limits the amount of either the “qualified wages” tax credit or the enterprise zone sales and use tax credit, with respect to a particular enterprise zone, to the amount of tax that would be imposed on the taxpayer’s business income attributable to that enterprise zone.

This bill would expand the amounts of those tax credits by providing that the amount of either tax credit may not exceed the amount of tax that would be imposed on the taxpayer’s business income attributable to all specified enterprise zones, ~~or if applicable, the amount of the tax that would be imposed on the business income~~

~~attributable to specified enterprise zones of all taxpayers that are members of a unitary group.~~ This bill would also make conforming changes to certain statutory apportionment procedures, and to the application and definition of property and payroll factors in income apportionment formulas.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 17053.70 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 17053.70. (a) There is allowed as a credit against the “net
- 4 tax” (as defined in Section 17039) for the taxable year an amount
- 5 equal to the sales or use tax paid or incurred during the taxable
- 6 year by the taxpayer in connection with the taxpayer’s purchase
- 7 of qualified property.
- 8 (b) For purposes of this section:
- 9 (1) “Taxpayer” means a person or entity engaged in a trade or
- 10 business within an enterprise zone.
- 11 (2) “Qualified property” means:
- 12 (A) Any of the following:
- 13 (i) Machinery and machinery parts used for fabricating,
- 14 processing, assembling, and manufacturing.
- 15 (ii) Machinery and machinery parts used for the production of
- 16 renewable energy resources.
- 17 (iii) Machinery and machinery parts used for either of the
- 18 following:
- 19 (I) Air pollution control mechanisms.
- 20 (II) Water pollution control mechanisms.
- 21 (iv) Data processing and communications equipment,
- 22 including, but not limited, to computers, computer-automated
- 23 drafting systems, copy machines, telephone systems, and faxes.
- 24 (v) Motion picture manufacturing equipment central to
- 25 production and postproduction, including, but not limited to,
- 26 cameras, audio recorders, and digital image and sound processing
- 27 equipment.
- 28 (B) The total cost of qualified property purchased and placed
- 29 in service in any taxable year that may be taken into account by

1 any taxpayer for purposes of claiming this credit shall not exceed  
2 one million dollars (\$1,000,000).

3 (C) The qualified property is used by the taxpayer exclusively  
4 in an enterprise zone.

5 (D) The qualified property is purchased and placed in service  
6 before the date the enterprise zone designation expires, is no  
7 longer binding, or becomes inoperative.

8 (3) "Enterprise zone" means the area designated as an  
9 enterprise zone pursuant to Chapter 12.8 (commencing with  
10 Section 7070) of Division 7 of Title 1 of the Government Code.

11 (c) If the taxpayer has purchased property upon which a use  
12 tax has been paid or incurred, the credit provided by this section  
13 is allowed only if qualified property of a comparable quality and  
14 price is not timely available for purchase in this state.

15 (d) In the case where the credit otherwise allowed under this  
16 section exceeds the "net tax" for the taxable year, that portion of  
17 the credit that exceeds the "net tax" may be carried over and  
18 added to the credit, if any, in succeeding taxable years, until the  
19 credit is exhausted. The credit shall be applied first to the earliest  
20 taxable years possible.

21 (e) Any taxpayer who elects to be subject to this section may  
22 not be entitled to increase the basis of the qualified property as  
23 otherwise required by Section 164 (a) of the Internal Revenue  
24 Code with respect to sales or use tax paid or incurred in  
25 connection with the taxpayer's purchase of qualified property.

26 (f) (1) The amount of the credit otherwise allowed under this  
27 section and Section 17053.74, including any credit carryover  
28 from prior years, that may reduce the "net tax" for the taxable  
29 year shall not exceed the amount of tax that would be imposed on  
30 the taxpayer's business income attributable to all of those  
31 enterprise zones that, in accordance with Section 7076.1 of the  
32 Government Code, have received an audit determination of either  
33 "pass" or "superior," determined as if that attributable income  
34 represented all of the income of the taxpayer subject to tax under  
35 this part.

36 (2) Attributable income shall be that portion of the taxpayer's  
37 California source business income that is apportioned to all of  
38 those enterprise zones that, in accordance with Section 7076.1 of  
39 the Government Code, have received an audit determination of  
40 either "pass" or "superior." For that purpose, the taxpayer's

1 business income attributable to sources in this state first shall be  
2 determined in accordance with Chapter 17 (commencing with  
3 Section 25101) of Part 11. That business income shall be further  
4 apportioned to those enterprise zones that, in accordance with  
5 Section 7076.1 of the Government Code, have received an audit  
6 determination of either “pass” or “superior,” in accordance with  
7 Article 2 (commencing with Section 25120) of Chapter 17 of  
8 Part 11, modified for purposes of this section in accordance with  
9 paragraph (3).

10 (3) Business income shall be apportioned to those enterprise  
11 zones that, in accordance with Section 7076.1 of the Government  
12 Code, have received an audit determination of either “pass” or  
13 “superior,” by multiplying the total California business income of  
14 the taxpayer by a fraction, the numerator of which is the property  
15 factor plus the payroll factor, and the denominator of which is  
16 two. For purposes of this paragraph:

17 (A) The property factor is a fraction, the numerator of which is  
18 the average value of the taxpayer’s real and tangible personal  
19 property owned or rented and used in those enterprise zones that,  
20 in accordance with Section 7076.1 of the Government Code,  
21 have received an audit determination of either “pass” or  
22 “superior,” during the taxable year, and the denominator of  
23 which is the average value of all the taxpayer’s real and tangible  
24 personal property owned or rented and used in this state during  
25 the taxable year.

26 (B) The payroll factor is a fraction, the numerator of which is  
27 the total amount paid by the taxpayer in those enterprise zones  
28 that, in accordance with Section 7076.1 of the Government Code,  
29 have received an audit determination of either “pass” or  
30 “superior,” during the taxable year for compensation, and the  
31 denominator of which is the total compensation paid by the  
32 taxpayer in this state during the taxable year.

33 (4) The portion of any credit remaining, if any, after  
34 application of this subdivision, shall be carried over to  
35 succeeding taxable years, as if it were an amount exceeding the  
36 “net tax” for the taxable year, as provided in subdivision (d).

37 (g) The amendments made to this section by Chapter 323 of  
38 the Statutes of 1998 shall apply to taxable years beginning on or  
39 after January 1, 1998.

1 (h) The amendments made to this section by the act adding  
2 this subdivision shall apply to taxable years beginning on or after  
3 January 1, 2005.

4 SEC. 2. Section 17053.74 of the Revenue and Taxation Code  
5 is amended to read:

6 17053.74. (a) There is allowed a credit against the “net tax”  
7 (as defined in Section 17039) to a taxpayer who employs a  
8 qualified employee in an enterprise zone during the taxable year.  
9 The credit is equal to the sum of each of the following:

10 (1) Fifty percent of qualified wages in the first year of  
11 employment.

12 (2) Forty percent of qualified wages in the second year of  
13 employment.

14 (3) Thirty percent of qualified wages in the third year of  
15 employment.

16 (4) Twenty percent of qualified wages in the fourth year of  
17 employment.

18 (5) Ten percent of qualified wages in the fifth year of  
19 employment.

20 (b) For purposes of this section:

21 (1) “Qualified wages” means:

22 (A) (i) Except as provided in clause (ii), that portion of wages  
23 paid or incurred by the taxpayer during the taxable year to  
24 qualified employees that does not exceed 150 percent of the  
25 minimum wage.

26 (ii) For up to 1,350 qualified employees who are employed by  
27 the taxpayer in the Long Beach Enterprise Zone in aircraft  
28 manufacturing activities described in Codes 3721 to 3728,  
29 inclusive, and Code 3812 of the Standard Industrial  
30 Classification (SIC) Manual published by the United States  
31 Office of Management and Budget, 1987 edition, “qualified  
32 wages” means that portion of hourly wages that does not exceed  
33 202 percent of the minimum wage.

34 (B) Wages received during the 60-month period beginning  
35 with the first day the employee commences employment with the  
36 taxpayer. Reemployment in connection with any increase,  
37 including a regularly occurring seasonal increase, in the trade or  
38 business operations of the taxpayer does not constitute  
39 commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the taxpayer on or after the zone expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the taxpayer within the enterprise zone within the 60-month period prior to the zone expiration date shall continue to qualify for the credit under this section after the zone expiration date, in accordance with all provisions of this section applied as if the enterprise zone designation were still in existence and binding.

(2) “Minimum wage” means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) “Zone expiration date” means the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(4) (A) “Qualified employee” means an individual who meets all of the following requirements:

(i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer’s trade or business located in an enterprise zone.

(ii) Performs at least 50 percent of his or her services for the taxpayer during the taxable year in an enterprise zone.

(iii) Is hired by the taxpayer after the date of original designation of the area in which services were performed as an enterprise zone.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.

(II) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) of

1 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions  
2 Code, or its successor.

3 (III) Immediately preceding the qualified employee's  
4 commencement of employment with the taxpayer, was an  
5 economically disadvantaged individual 14 years of age or older.

6 (IV) Immediately preceding the qualified employee's  
7 commencement of employment with the taxpayer, was a  
8 dislocated worker who meets any of the following:

9 (aa) Has been terminated or laid off or who has received a  
10 notice of termination or layoff from employment, is eligible for  
11 or has exhausted entitlement to unemployment insurance  
12 benefits, and is unlikely to return to his or her previous industry  
13 or occupation.

14 (bb) Has been terminated or has received a notice of  
15 termination of employment as a result of any permanent closure  
16 or any substantial layoff at a plant, facility, or enterprise,  
17 including an individual who has not received written notification  
18 but whose employer has made a public announcement of the  
19 closure or layoff.

20 (cc) Is long-term unemployed and has limited opportunities for  
21 employment or reemployment in the same or a similar  
22 occupation in the area in which the individual resides, including  
23 an individual 55 years of age or older who may have substantial  
24 barriers to employment by reason of age.

25 (dd) Was self-employed (including farmers and ranchers) and  
26 is unemployed as a result of general economic conditions in the  
27 community in which he or she resides or because of natural  
28 disasters.

29 (ee) Was a civilian employee of the Department of Defense  
30 employed at a military installation being closed or realigned  
31 under the Defense Base Closure and Realignment Act of 1990.

32 (ff) Was an active member of the armed forces or National  
33 Guard as of September 30, 1990, and was either involuntarily  
34 separated or separated pursuant to a special benefits program.

35 (gg) Is a seasonal or migrant worker who experiences chronic  
36 seasonal unemployment and underemployment in the agriculture  
37 industry, aggravated by continual advancements in technology  
38 and mechanization.

1 (hh) Has been terminated or laid off, or has received a notice  
2 of termination or layoff, as a consequence of compliance with the  
3 Clean Air Act.

4 (V) Immediately preceding the qualified employee's  
5 commencement of employment with the taxpayer, was a disabled  
6 individual who is eligible for or enrolled in, or has completed a  
7 state rehabilitation plan or is a service-connected disabled  
8 veteran, veteran of the Vietnam era, or veteran who is recently  
9 separated from military service.

10 (VI) Immediately preceding the qualified employee's  
11 commencement of employment with the taxpayer, was an  
12 ex-offender. An individual is treated as convicted if he or she  
13 was placed on probation by a state court without a finding of  
14 guilt.

15 (VII) Immediately preceding the qualified employee's  
16 commencement of employment with the taxpayer, was a person  
17 eligible for or a recipient of any of the following:

18 (aa) Federal Supplemental Security Income benefits.

19 (bb) Aid to Families with Dependent Children.

20 (cc) Food stamps.

21 (dd) State and local general assistance.

22 (VIII) Immediately preceding the qualified employee's  
23 commencement of employment with the taxpayer, was a member  
24 of a federally recognized Indian tribe, band, or other group of  
25 Native American descent.

26 (IX) Immediately preceding the qualified employee's  
27 commencement of employment with the taxpayer, was a resident  
28 of a targeted employment area, as defined in Section 7072 of the  
29 Government Code.

30 (X) An employee who qualified the taxpayer for the enterprise  
31 zone hiring credit under former Section 17053.8 or the program  
32 area hiring credit under former Section 17053.11.

33 (XI) Immediately preceding the qualified employee's  
34 commencement of employment with the taxpayer, was a member  
35 of a targeted group, as defined in Section 51(d) of the Internal  
36 Revenue Code, or its successor.

37 (B) Priority for employment shall be provided to an individual  
38 who is enrolled in a qualified program under the federal Job  
39 Training Partnership Act or the Greater Avenues for  
40 Independence Act of 1985 or who is eligible as a member of a



1 targeted group under the Work Opportunity Tax Credit (Section  
2 51 of the Internal Revenue Code), or its successor.

3 (5) "Taxpayer" means a person or entity engaged in a trade or  
4 business within an enterprise zone designated pursuant to  
5 Chapter 12.8 (commencing with Section 7070) of the  
6 Government Code.

7 (6) "Seasonal employment" means employment by a taxpayer  
8 that has regular and predictable substantial reductions in trade or  
9 business operations.

10 (c) The taxpayer shall do both of the following:

11 (1) Obtain from the Employment Development Department, as  
12 permitted by federal law, the local county or city Job Training  
13 Partnership Act administrative entity, the local county GAIN  
14 office or social services agency, or the local government  
15 administering the enterprise zone, a certification which provides  
16 that a qualified employee meets the eligibility requirements  
17 specified in clause (iv) of subparagraph (A) of paragraph (4) of  
18 subdivision (b). The Employment Development Department may  
19 provide preliminary screening and referral to a certifying agency.  
20 The Employment Development Department shall develop a form  
21 for this purpose. The Department of Housing and Community  
22 Development shall develop regulations governing the issuance of  
23 certificates by local governments pursuant to subdivision (a) of  
24 Section 7086 of the Government Code.

25 (2) Retain a copy of the certification and provide it upon  
26 request to the Franchise Tax Board.

27 (d) (1) For purposes of this section:

28 (A) All employees of trades or businesses, which are not  
29 incorporated, that are under common control shall be treated as  
30 employed by a single taxpayer.

31 (B) The credit, if any, allowable by this section with respect to  
32 each trade or business shall be determined by reference to its  
33 proportionate share of the expense of the qualified wages giving  
34 rise to the credit, and shall be allocated in that manner.

35 (C) Principles that apply in the case of controlled groups of  
36 corporations, as specified in subdivision (d) of Section 23622.7,  
37 apply with respect to determining employment.

38 (2) If an employer acquires the major portion of a trade or  
39 business of another employer (hereinafter in this paragraph  
40 referred to as the "predecessor") or the major portion of a

1 separate unit of a trade or business of a predecessor, then, for  
2 purposes of applying this section (other than subdivision (e)) for  
3 any calendar year ending after that acquisition, the employment  
4 relationship between a qualified employee and an employer shall  
5 not be treated as terminated if the employee continues to be  
6 employed in that trade or business.

7 (e) (1) (A) If the employment, other than seasonal  
8 employment, of any qualified employee, with respect to whom  
9 qualified wages are taken into account under subdivision (a) is  
10 terminated by the taxpayer at any time during the first 270 days  
11 of that employment (whether or not consecutive) or before the  
12 close of the 270th calendar day after the day in which that  
13 employee completes 90 days of employment with the taxpayer,  
14 the tax imposed by this part for the taxable year in which that  
15 employment is terminated shall be increased by an amount equal  
16 to the credit allowed under subdivision (a) for that taxable year  
17 and all prior taxable years attributable to qualified wages paid or  
18 incurred with respect to that employee.

19 (B) If the seasonal employment of any qualified employee,  
20 with respect to whom qualified wages are taken into account  
21 under subdivision (a) is not continued by the taxpayer for a  
22 period of 270 days of employment during the 60-month period  
23 beginning with the day the qualified employee commences  
24 seasonal employment with the taxpayer, the tax imposed by this  
25 part, for the taxable year that includes the 60th month following  
26 the month in which the qualified employee commences seasonal  
27 employment with the taxpayer, shall be increased by an amount  
28 equal to the credit allowed under subdivision (a) for that taxable  
29 year and all prior taxable years attributable to qualified wages  
30 paid or incurred with respect to that qualified employee.

31 (2) (A) Subparagraph (A) of paragraph (1) does not apply to  
32 any of the following:

33 (i) A termination of employment of a qualified employee who  
34 voluntarily leaves the employment of the taxpayer.

35 (ii) A termination of employment of a qualified employee  
36 who, before the close of the period referred to in paragraph (1),  
37 becomes disabled and unable to perform the services of that  
38 employment, unless that disability is removed before the close of  
39 that period and the taxpayer fails to offer reemployment to that  
40 employee.

1 (iii) A termination of employment of a qualified employee, if  
2 it is determined that the termination was due to the misconduct  
3 (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22  
4 of the California Code of Regulations) of that employee.

5 (iv) A termination of employment of a qualified employee due  
6 to a substantial reduction in the trade or business operations of  
7 the taxpayer.

8 (v) A termination of employment of a qualified employee, if  
9 that employee is replaced by other qualified employees so as to  
10 create a net increase in both the number of employees and the  
11 hours of employment.

12 (B) Subparagraph (B) of paragraph (1) does not apply to any  
13 of the following:

14 (i) A failure to continue the seasonal employment of a  
15 qualified employee who voluntarily fails to return to the seasonal  
16 employment of the taxpayer.

17 (ii) A failure to continue the seasonal employment of a  
18 qualified employee who, before the close of the period referred to  
19 in subparagraph (B) of paragraph (1), becomes disabled and  
20 unable to perform the services of that seasonal employment,  
21 unless that disability is removed before the close of that period  
22 and the taxpayer fails to offer seasonal employment to that  
23 qualified employee.

24 (iii) A failure to continue the seasonal employment of a  
25 qualified employee, if it is determined that the failure to continue  
26 the seasonal employment was due to the misconduct (as defined  
27 in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the  
28 California Code of Regulations) of that qualified employee.

29 (iv) A failure to continue seasonal employment of a qualified  
30 employee due to a substantial reduction in the regular seasonal  
31 trade or business operations of the taxpayer.

32 (v) A failure to continue the seasonal employment of a  
33 qualified employee, if that qualified employee is replaced by  
34 other qualified employees so as to create a net increase in both  
35 the number of seasonal employees and the hours of seasonal  
36 employment.

37 (C) For purposes of paragraph (1), the employment  
38 relationship between the taxpayer and a qualified employee shall  
39 not be treated as terminated by reason of a mere change in the  
40 form of conducting the trade or business of the taxpayer, if the

1 qualified employee continues to be employed in that trade or  
2 business and the taxpayer retains a substantial interest in that  
3 trade or business.

4 (3) Any increase in tax under paragraph (1) shall not be treated  
5 as tax imposed by this part for purposes of determining the  
6 amount of any credit allowable under this part.

7 (f) In the case of an estate or trust, both of the following apply:

8 (1) The qualified wages for any taxable year shall be  
9 apportioned between the estate or trust and the beneficiaries on  
10 the basis of the income of the estate or trust allocable to each.

11 (2) Any beneficiary to whom any qualified wages have been  
12 apportioned under paragraph (1) shall be treated, for purposes of  
13 this part, as the employer with respect to those wages.

14 (g) For purposes of this section, “enterprise zone” means an  
15 area designated as an enterprise zone pursuant to Chapter 12.8  
16 (commencing with Section 7070) of Division 7 of Title 1 of the  
17 Government Code.

18 (h) The credit allowable under this section shall be reduced by  
19 the credit allowed under Sections 17053.10, 17053.17 and  
20 17053.46 claimed for the same employee. The credit shall also be  
21 reduced by the federal credit allowed under Section 51 of the  
22 Internal Revenue Code.

23 In addition, any deduction otherwise allowed under this part  
24 for the wages or salaries paid or incurred by the taxpayer upon  
25 which the credit is based shall be reduced by the amount of the  
26 credit, prior to any reduction required by subdivision (i) or (j).

27 (i) In the case where the credit otherwise allowed under this  
28 section exceeds the “net tax” for the taxable year, that portion of  
29 the credit that exceeds the “net tax” may be carried over and  
30 added to the credit, if any, in succeeding taxable years, until the  
31 credit is exhausted. The credit shall be applied first to the earliest  
32 taxable years possible.

33 (j) (1) The amount of the credit otherwise allowed under this  
34 section and Section 17053.70, including any credit carryover  
35 from prior years, that may reduce the “net tax” for the taxable  
36 year shall not exceed the amount of tax that would be imposed on  
37 the taxpayer’s business income attributable to all of those  
38 enterprise zones that, in accordance with Section 7076.1 of the  
39 Government Code, have received an audit determination of either  
40 “pass” or “superior,” determined as if that attributable income

1 represented all of the income of the taxpayer subject to tax under  
2 this part.

3 (2) Attributable income shall be that portion of the taxpayer's  
4 California source business income that is apportioned to all of  
5 those enterprise zones that, in accordance with Section 7076.1 of  
6 the Government Code, have received an audit determination of  
7 either "pass" or "superior." For that purpose, the taxpayer's  
8 business income attributable to sources in this state first shall be  
9 determined in accordance with Chapter 17 (commencing with  
10 Section 25101) of Part 11. That business income shall be further  
11 apportioned to those enterprise zones that, in accordance with  
12 Section 7076.1 of the Government Code, have received an audit  
13 determination of either "pass" or "superior," in accordance with  
14 Article 2 (commencing with Section 25120) of Chapter 17 of  
15 Part 11, modified for purposes of this section in accordance with  
16 paragraph (3).

17 (3) Business income shall be apportioned to those enterprise  
18 zones that, in accordance with Section 7076.1 of the Government  
19 Code, have received an audit determination of either "pass" or  
20 "superior," by multiplying the total California business income of  
21 the taxpayer by a fraction, the numerator of which is the property  
22 factor plus the payroll factor, and the denominator of which is  
23 two. For purposes of this paragraph:

24 (A) The property factor is a fraction, the numerator of which is  
25 the average value of the taxpayer's real and tangible personal  
26 property owned or rented and used in those enterprise zones that,  
27 in accordance with Section 7076.1 of the Government Code,  
28 have received an audit determination of either "pass" or  
29 "superior," during the taxable year, and the denominator of  
30 which is the average value of all the taxpayer's real and tangible  
31 personal property owned or rented and used in this state during  
32 the taxable year.

33 (B) The payroll factor is a fraction, the numerator of which is  
34 the total amount paid by the taxpayer in those enterprise zones  
35 that, in accordance with Section 7076.1 of the Government Code,  
36 have received an audit determination of either "pass" or  
37 "superior," during the taxable year for compensation, and the  
38 denominator of which is the total compensation paid by the  
39 taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the “net tax” for the taxable year, as provided in subdivision (i).

(k) The changes made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 1997.

(l) The changes made to this section by the act that added this subdivision apply to taxable years beginning on and after January 1, 2005.

SEC. 3. Section 23612.2 of the Revenue and Taxation Code is amended to read:

23612.2. (a) There is allowed as a credit against the “tax” (as defined by Section 23036) for the taxable year an amount equal to the sales or use tax paid or incurred during the taxable year by the taxpayer in connection with the taxpayer’s purchase of qualified property.

(b) For purposes of this section:

(1) “Taxpayer” means a corporation engaged in a trade or business within an enterprise zone.

(2) “Qualified property” means:

(A) Any of the following:

(i) Machinery and machinery parts used for fabricating, processing, assembling, and manufacturing.

(ii) Machinery and machinery parts used for the production of renewable energy resources.

(iii) Machinery and machinery parts used for either of the following:

(I) Air pollution control mechanisms.

(II) Water pollution control mechanisms.

(iv) Data-processing and communications equipment, including, but not limited to, computers, computer-automated drafting systems, copy machines, telephone systems, and faxes.

(v) Motion picture manufacturing equipment central to production and postproduction, including, but not limited to, cameras, audio recorders, and digital image and sound processing equipment.

(B) The total cost of qualified property purchased and placed in service in any taxable year that may be taken into account by

any taxpayer for purposes of claiming this credit shall not exceed twenty million dollars (\$20,000,000).

(C) The qualified property is used by the taxpayer exclusively in an enterprise zone.

(D) The qualified property is purchased and placed in service before the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(3) “Enterprise zone” means the area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(c) If the taxpayer has purchased property upon which a use tax has been paid or incurred, the credit provided by this section is allowed only if qualified property of a comparable quality and price is not timely available for purchase in this state.

(d) In the case where the credit otherwise allowed under this section exceeds the “tax” for the taxable year, that portion of the credit which exceeds the “tax” may be carried over and added to the credit, if any, in the following year, and succeeding years if necessary, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(e) Any taxpayer who elects to be subject to this section may not be entitled to increase the basis of the qualified property as otherwise required by Section 164(a) of the Internal Revenue Code with respect to sales or use tax paid or incurred in connection with the taxpayer’s purchase of qualified property.

(f) (1) The amount of credit otherwise allowed under this section and Section 23622.7, including any credit carryover from prior years, that may reduce the “tax” for the taxable year shall not exceed the amount of tax which would be imposed on the taxpayer’s business income attributable to all of those enterprise zones that, in accordance with Section 7076.1 of the Government Code, have received an audit determination of either “pass” or “superior,” or if applicable, the tax that would be imposed on the combined business income attributable to all of those enterprise zones that, in accordance with Section 7076.1 of the Government Code, have received an audit determination of either “pass” or “superior,” of all taxpayers that are members of a unitary group determined as if that attributable income represented all of the income of the taxpayer or unitary group subject to tax under this part. — either “pass” or “superior,” determined as if that

1 *attributable income represented all of the income of the taxpayer*  
2 *subject to tax under this part.*

3 (2) Attributable income shall be that portion of the taxpayer's  
4 ~~or unitary group's~~ California source business income that is  
5 apportioned to those enterprise zones that, in accordance with  
6 Section 7076.1 of the Government Code, have received an audit  
7 determination of either "pass" or "superior." For that purpose, the  
8 taxpayer's ~~or unitary group's~~ business income attributable to  
9 sources in this state first shall be determined in accordance with  
10 Chapter 17 (commencing with Section 25101). That business  
11 income shall be further apportioned to those enterprise zones  
12 that, in accordance with Section 7076.1 of the Government Code,  
13 have received an audit determination of either "pass" or  
14 "superior," in accordance with Article 2 (commencing with  
15 Section 25120) of Chapter 17, modified for purposes of this  
16 section in accordance with paragraph (3).

17 (3) Business income shall be apportioned to those enterprise  
18 zones that, in accordance with Section 7076.1 of the Government  
19 Code, have received an audit determination of either "pass" or  
20 "superior," by multiplying the total California business income of  
21 the taxpayer ~~or unitary group~~ by a fraction, the numerator of  
22 which is the property factor plus the payroll factor, and the  
23 denominator of which is two. For purposes of this paragraph:

24 (A) The property factor is a fraction, the numerator of which is  
25 the average value of the taxpayer's ~~or unitary group's~~ real and  
26 tangible personal property owned or rented and used in those  
27 enterprise zones that, in accordance with Section 7076.1 of the  
28 Government Code, have received an audit determination of either  
29 "pass" or "superior," during the taxable year, and the  
30 denominator of which is the average value of all the taxpayer's ~~or~~  
31 ~~unitary group's~~ real and tangible personal property owned or  
32 rented and used in this state during the taxable year.

33 (B) The payroll factor is a fraction, the numerator of which is  
34 the total amount paid by the taxpayer ~~or unitary group~~ in those  
35 enterprise zones that, in accordance with Section 7076.1 of the  
36 Government Code, have received an audit determination of either  
37 "pass" or "superior," during the taxable year for compensation,  
38 and the denominator of which is the total compensation paid by  
39 the taxpayer ~~or unitary group~~ in this state during the taxable year.



1 (4) The portion of any credit remaining, if any, after  
2 application of this subdivision, shall be carried over to  
3 succeeding taxable years, as if it were an amount exceeding the  
4 “tax” for the taxable year, as provided in subdivision (d).

5 (g) The amendments made to this section by Chapter 323 of  
6 the Statutes of 1998 shall apply to taxable years beginning on or  
7 after January 1, 1998.

8 (h) The amendments made to this section by the act adding  
9 this subdivision shall apply to taxable years beginning on or after  
10 January 1, 2005.

11 SEC. 4. Section 23622.7 of the Revenue and Taxation Code  
12 is amended to read:

13 23622.7. (a) There is allowed a credit against the “tax” (as  
14 defined by Section 23036) to a taxpayer who employs a qualified  
15 employee in an enterprise zone during the taxable year. The  
16 credit is equal to the sum of each of the following:

17 (1) Fifty percent of qualified wages in the first year of  
18 employment.

19 (2) Forty percent of qualified wages in the second year of  
20 employment.

21 (3) Thirty percent of qualified wages in the third year of  
22 employment.

23 (4) Twenty percent of qualified wages in the fourth year of  
24 employment.

25 (5) Ten percent of qualified wages in the fifth year of  
26 employment.

27 (b) For purposes of this section:

28 (1) “Qualified wages” means:

29 (A) (i) Except as provided in clause (ii), that portion of wages  
30 paid or incurred by the taxpayer during the taxable year to  
31 qualified employees that does not exceed 150 percent of the  
32 minimum wage.

33 (ii) For up to 1,350 qualified employees who are employed by  
34 the taxpayer in the Long Beach Enterprise Zone in aircraft  
35 manufacturing activities described in Codes 3721 to 3728,  
36 inclusive, and Code 3812 of the Standard Industrial  
37 Classification (SIC) Manual published by the United States  
38 Office of Management and Budget, 1987 edition, “qualified  
39 wages” means that portion of hourly wages that does not exceed  
40 202 percent of the minimum wage.

1 (B) Wages received during the 60-month period beginning  
2 with the first day the employee commences employment with the  
3 taxpayer. Reemployment in connection with any increase,  
4 including a regularly occurring seasonal increase, in the trade or  
5 business operations of the taxpayer does not constitute  
6 commencement of employment for purposes of this section.

7 (C) Qualified wages do not include any wages paid or incurred  
8 by the taxpayer on or after the zone expiration date. However,  
9 wages paid or incurred with respect to qualified employees who  
10 are employed by the taxpayer within the enterprise zone within  
11 the 60-month period prior to the zone expiration date shall  
12 continue to qualify for the credit under this section after the zone  
13 expiration date, in accordance with all provisions of this section  
14 applied as if the enterprise zone designation were still in  
15 existence and binding.

16 (2) "Minimum wage" means the wage established by the  
17 Industrial Welfare Commission as provided for in Chapter 1  
18 (commencing with Section 1171) of Part 4 of Division 2 of the  
19 Labor Code.

20 (3) "Zone expiration date" means the date the enterprise zone  
21 designation expires, is no longer binding, or becomes  
22 inoperative.

23 (4) (A) "Qualified employee" means an individual who meets  
24 all of the following requirements:

25 (i) At least 90 percent of whose services for the taxpayer  
26 during the taxable year are directly related to the conduct of the  
27 taxpayer's trade or business located in an enterprise zone.

28 (ii) Performs at least 50 percent of his or her services for the  
29 taxpayer during the taxable year in an enterprise zone.

30 (iii) Is hired by the taxpayer after the date of original  
31 designation of the area in which services were performed as an  
32 enterprise zone.

33 (iv) Is any of the following:

34 (I) Immediately preceding the qualified employee's  
35 commencement of employment with the taxpayer, was a person  
36 eligible for services under the federal Job Training Partnership  
37 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is  
38 receiving, or is eligible to receive, subsidized employment,  
39 training, or services funded by the federal Job Training  
40 Partnership Act, or its successor.

1 (II) Immediately preceding the qualified employee's  
2 commencement of employment with the taxpayer, was a person  
3 eligible to be a voluntary or mandatory registrant under the  
4 Greater Avenues for Independence Act of 1985 (GAIN) provided  
5 for pursuant to Article 3.2 (commencing with Section 11320) of  
6 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions  
7 Code, or its successor.

8 (III) Immediately preceding the qualified employee's  
9 commencement of employment with the taxpayer, was an  
10 economically disadvantaged individual 14 years of age or older.

11 (IV) Immediately preceding the qualified employee's  
12 commencement of employment with the taxpayer, was a  
13 dislocated worker who meets any of the following:

14 (aa) Has been terminated or laid off or who has received a  
15 notice of termination or layoff from employment, is eligible for  
16 or has exhausted entitlement to unemployment insurance  
17 benefits, and is unlikely to return to his or her previous industry  
18 or occupation.

19 (bb) Has been terminated or has received a notice of  
20 termination of employment as a result of any permanent closure  
21 or any substantial layoff at a plant, facility, or enterprise,  
22 including an individual who has not received written notification  
23 but whose employer has made a public announcement of the  
24 closure or layoff.

25 (cc) Is long-term unemployed and has limited opportunities for  
26 employment or reemployment in the same or a similar  
27 occupation in the area in which the individual resides, including  
28 an individual 55 years of age or older who may have substantial  
29 barriers to employment by reason of age.

30 (dd) Was self-employed (including farmers and ranchers) and  
31 is unemployed as a result of general economic conditions in the  
32 community in which he or she resides or because of natural  
33 disasters.

34 (ee) Was a civilian employee of the Department of Defense  
35 employed at a military installation being closed or realigned  
36 under the Defense Base Closure and Realignment Act of 1990.

37 (ff) Was an active member of the armed forces or National  
38 Guard as of September 30, 1990, and was either involuntarily  
39 separated or separated pursuant to a special benefits program.

1 (gg) Is a seasonal or migrant worker who experiences chronic  
2 seasonal unemployment and underemployment in the agriculture  
3 industry, aggravated by continual advancements in technology  
4 and mechanization.

5 (hh) Has been terminated or laid off, or has received a notice  
6 of termination or layoff, as a consequence of compliance with the  
7 Clean Air Act.

8 (V) Immediately preceding the qualified employee's  
9 commencement of employment with the taxpayer, was a disabled  
10 individual who is eligible for or enrolled in, or has completed a  
11 state rehabilitation plan or is a service-connected disabled  
12 veteran, veteran of the Vietnam era, or veteran who is recently  
13 separated from military service.

14 (VI) Immediately preceding the qualified employee's  
15 commencement of employment with the taxpayer, was an  
16 ex-offender. An individual is treated as convicted if he or she  
17 was placed on probation by a state court without a finding of  
18 guilt.

19 (VII) Immediately preceding the qualified employee's  
20 commencement of employment with the taxpayer, was a person  
21 eligible for or a recipient of any of the following:

22 (aa) Federal Supplemental Security Income benefits.

23 (bb) Aid to Families with Dependent Children.

24 (cc) Food stamps.

25 (dd) State and local general assistance.

26 (VIII) Immediately preceding the qualified employee's  
27 commencement of employment with the taxpayer, was a member  
28 of a federally recognized Indian tribe, band, or other group of  
29 Native American descent.

30 (IX) Immediately preceding the qualified employee's  
31 commencement of employment with the taxpayer, was a resident  
32 of a targeted employment area (as defined in Section 7072 of the  
33 Government Code).

34 (X) An employee who qualified the taxpayer for the enterprise  
35 zone hiring credit under former Section 23622 or the program  
36 area hiring credit under former Section 23623.

37 (XI) Immediately preceding the qualified employee's  
38 commencement of employment with the taxpayer, was a member  
39 of a targeted group, as defined in Section 51(d) of the Internal  
40 Revenue Code, or its successor.

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal Job Training Partnership Act or the Greater Avenues for Independence Act of 1985 or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) "Taxpayer" means a corporation engaged in a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(6) "Seasonal employment" means employment by a taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) The taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the enterprise zone, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Employment Development Department shall develop a form for this purpose. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (a) of Section 7086 of the Government Code.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section:

(A) All employees of all corporations that are members of the same controlled group of corporations shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section to each member shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) For purposes of this subdivision, "controlled group of corporations" means "controlled group of corporations" as

1 defined in Section 1563(a) of the Internal Revenue Code, except  
2 that:

3 (i) “More than 50 percent” is substituted for “at least 80  
4 percent” each place it appears in Section 1563(a)(1) of the  
5 Internal Revenue Code.

6 (ii) The determination shall be made without regard to  
7 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal  
8 Revenue Code.

9 (2) If an employer acquires the major portion of a trade or  
10 business of another employer (hereinafter in this paragraph  
11 referred to as the “predecessor”) or the major portion of a  
12 separate unit of a trade or business of a predecessor, then, for  
13 purposes of applying this section (other than subdivision (e)) for  
14 any calendar year ending after that acquisition, the employment  
15 relationship between a qualified employee and an employer shall  
16 not be treated as terminated if the employee continues to be  
17 employed in that trade or business.

18 (e) (1) (A) If the employment, other than seasonal  
19 employment, of any qualified employee with respect to whom  
20 qualified wages are taken into account under subdivision (a) is  
21 terminated by the taxpayer at any time during the first 270 days  
22 of that employment, whether or not consecutive, or before the  
23 close of the 270th calendar day after the day in which that  
24 employee completes 90 days of employment with the taxpayer,  
25 the tax imposed by this part for the taxable year in which that  
26 employment is terminated shall be increased by an amount equal  
27 to the credit allowed under subdivision (a) for that taxable year  
28 and all prior taxable years attributable to qualified wages paid or  
29 incurred with respect to that employee.

30 (B) If the seasonal employment of any qualified employee,  
31 with respect to whom qualified wages are taken into account  
32 under subdivision (a) is not continued by the taxpayer for a  
33 period of 270 days of employment during the 60-month period  
34 beginning with the day the qualified employee commences  
35 seasonal employment with the taxpayer, the tax imposed by this  
36 part, for the taxable year that includes the 60th month following  
37 the month in which the qualified employee commences seasonal  
38 employment with the taxpayer, shall be increased by an amount  
39 equal to the credit allowed under subdivision (a) for that taxable

1 year and all prior taxable years attributable to qualified wages  
2 paid or incurred with respect to that qualified employee.

3 (2) (A) Subparagraph (A) of paragraph (1) does not apply to  
4 any of the following:

5 (i) A termination of employment of a qualified employee who  
6 voluntarily leaves the employment of the taxpayer.

7 (ii) A termination of employment of a qualified employee  
8 who, before the close of the period referred to in subparagraph  
9 (A) of paragraph (1), becomes disabled and unable to perform the  
10 services of that employment, unless that disability is removed  
11 before the close of that period and the taxpayer fails to offer  
12 reemployment to that employee.

13 (iii) A termination of employment of a qualified employee, if  
14 it is determined that the termination was due to the misconduct  
15 (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22  
16 of the California Code of Regulations) of that employee.

17 (iv) A termination of employment of a qualified employee due  
18 to a substantial reduction in the trade or business operations of  
19 the taxpayer.

20 (v) A termination of employment of a qualified employee, if  
21 that employee is replaced by other qualified employees so as to  
22 create a net increase in both the number of employees and the  
23 hours of employment.

24 (B) Subparagraph (B) of paragraph (1) does not apply to any  
25 of the following:

26 (i) A failure to continue the seasonal employment of a  
27 qualified employee who voluntarily fails to return to the seasonal  
28 employment of the taxpayer.

29 (ii) A failure to continue the seasonal employment of a  
30 qualified employee who, before the close of the period referred to  
31 in subparagraph (B) of paragraph (1), becomes disabled and  
32 unable to perform the services of that seasonal employment,  
33 unless that disability is removed before the close of that period  
34 and the taxpayer fails to offer seasonal employment to that  
35 qualified employee.

36 (iii) A failure to continue the seasonal employment of a  
37 qualified employee, if it is determined that the failure to continue  
38 the seasonal employment was due to the misconduct (as defined  
39 in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the  
40 California Code of Regulations) of that qualified employee.

1 (iv) A failure to continue seasonal employment of a qualified  
2 employee due to a substantial reduction in the regular seasonal  
3 trade or business operations of the taxpayer.

4 (v) A failure to continue the seasonal employment of a  
5 qualified employee, if that qualified employee is replaced by  
6 other qualified employees so as to create a net increase in both  
7 the number of seasonal employees and the hours of seasonal  
8 employment.

9 (C) For purposes of paragraph (1), the employment  
10 relationship between the taxpayer and a qualified employee shall  
11 not be treated as terminated by either of the following:

12 (i) By a transaction to which Section 381(a) of the Internal  
13 Revenue Code applies, if the qualified employee continues to be  
14 employed by the acquiring corporation.

15 (ii) By reason of a mere change in the form of conducting the  
16 trade or business of the taxpayer, if the qualified employee  
17 continues to be employed in that trade or business and the  
18 taxpayer retains a substantial interest in that trade or business.

19 (3) Any increase in tax under paragraph (1) shall not be treated  
20 as tax imposed by this part for purposes of determining the  
21 amount of any credit allowable under this part.

22 (f) Rules similar to the rules provided in Section 46(e) and (h)  
23 of the Internal Revenue Code shall apply to both of the  
24 following:

25 (1) An organization to which Section 593 of the Internal  
26 Revenue Code applies.

27 (2) A regulated investment company or a real estate  
28 investment trust subject to taxation under this part.

29 (g) For purposes of this section, “enterprise zone” means an  
30 area designated as an enterprise zone pursuant to Chapter 12.8  
31 (commencing with Section 7070) of Division 7 of Title 1 of the  
32 Government Code.

33 (h) The credit allowable under this section shall be reduced by  
34 the credit allowed under Sections 23623.5, 23625, and 23646  
35 claimed for the same employee. The credit shall also be reduced  
36 by the federal credit allowed under Section 51 of the Internal  
37 Revenue Code.

38 In addition, any deduction otherwise allowed under this part  
39 for the wages or salaries paid or incurred by the taxpayer upon



1 which the credit is based shall be reduced by the amount of the  
2 credit, prior to any reduction required by subdivision (i) or (j).

3 (i) In the case where the credit otherwise allowed under this  
4 section exceeds the “tax” for the taxable year, that portion of the  
5 credit that exceeds the “tax” may be carried over and added to  
6 the credit, if any, in succeeding taxable years, until the credit is  
7 exhausted. The credit shall be applied first to the earliest taxable  
8 years possible.

9 (j) (1) The amount of the credit otherwise allowed under this  
10 section and Section 23612.2, including any credit carryover from  
11 prior years, that may reduce the “tax” for the taxable year shall  
12 not exceed the amount of tax that would be imposed on the  
13 taxpayer’s business income attributable to all of those enterprise  
14 zones that, in accordance with Section 7076.1 of the Government  
15 Code, have received an audit determination of either “pass” or  
16 “superior,” or, if applicable, the tax that would be imposed on the  
17 combined business income attributable to all of those enterprise  
18 zones that, in accordance with Section 7076.1 of the Government  
19 Code, have received an audit ~~determination of either “pass” or~~  
20 ~~“superior,” of all taxpayers that are members of a unitary group~~  
21 ~~determined as if that attributable income represented all of the~~  
22 ~~income of the taxpayer or the unitary group subject to tax under~~  
23 ~~this part.~~ *determination of either “pass” or “superior,”*  
24 *determined as if that attributable income represented all of the*  
25 *income of the taxpayer subject to tax under this part.*

26 (2) Attributable income is that portion of the taxpayer’s ~~or the~~  
27 ~~unitary group’s~~ California source business income that is  
28 apportioned to all of those enterprise zones that, in accordance  
29 with Section 7076.1 of the Government Code, have received an  
30 audit determination of either “pass” or “superior.” For that  
31 purpose, the taxpayer’s business attributable to sources in this  
32 state first shall be determined in accordance with Chapter 17  
33 (commencing with Section 25101). That business income shall  
34 be further apportioned to those enterprise zones that, in  
35 accordance with Section 7076.1 of the Government Code, have  
36 received an audit determination of either “pass” or “superior,” in  
37 accordance with Article 2 (commencing with Section 25120) of  
38 Chapter 17, modified for purposes of this section in accordance  
39 with paragraph (3).

(3) Business income shall be apportioned to those enterprise zones that, in accordance with Section 7076.1 of the Government Code, have received an audit determination of either “pass” or “superior,” by multiplying the total California business income of the taxpayer ~~or the unitary group~~ by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer’s ~~or unitary group’s~~ real and tangible personal property owned or rented and used in those enterprise zones that, in accordance with Section 7076.1 of the Government Code, have received an audit determination of either “pass” or “superior,” during the income year, and the denominator of which is the average value of all the taxpayer’s ~~or unitary group’s~~ real and tangible personal property owned or rented and used in this state during the income year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer ~~or unitary group~~ in all of those enterprise zones that, in accordance with Section 7076.1 of the Government Code, have received an audit determination of either “pass” or “superior,” during the income year for compensation, and the denominator of which is the total compensation paid by the taxpayer ~~or the unitary group~~ in this state during the income year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the “tax” for the taxable year, as provided in subdivision (i).

(k) The changes made to this section by the act adding this subdivision shall apply to taxable years on or after January 1, 1997.

(l) The changes made to this section by the act that added this subdivision apply to taxable years beginning on and after January 1, 2005.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.